

BILL NO. 2500

ORDINANCE NO. 2309

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY PURCHASE OR CONDEMNATION OF EASEMENTS, BOTH PERMANENT AND TEMPORARY, CONTAINING 2.38 ACRES LOCATED AT 17659 N. OUTER 40 ROAD, CHESTERFIELD, MISSOURI 63005 AND OWNED BY WALTER E. GRAELER, JO ANN GRAELER, JUDITH A. GRAELER, CLARENCE E. GRAELER, AND ANY UNKNOWN HEIRS, BENEFICIARIES AND OTHER PERSONS, AND LEGAL ENTITIES CLAIMING LEGAL INTEREST IN THE PROPERTY LOCATED ON THE NORTH SIDE OF I-64/US 40 IN THE CITY OF CHESTERFIELD FOR USE AS A PUBLIC RECREATIONAL TRAIL.

WHEREAS, the City of Chesterfield is a political subdivision located in St. Louis County, Missouri and duly incorporated under the Revised Statutes of Missouri; and,

WHEREAS, the City Council, having been duly elected and qualified and empowered to acquire property for public recreational trails within the City under Section 77.140 Revised Statutes of Missouri; and,

WHEREAS, the City, pursuant to Chapters 88 and 523 of the Revised Statutes of Missouri has the power, authority, and privilege to condemn private property for public use and to take said property for the public purposes designated therein; and,

WHEREAS, the City Council has determined that the City requires the acquisition of easements necessary to establish the Monarch Chesterfield Levee Trail, a public recreational trail and to install, operate, and maintain said trail; and,

WHEREAS, the City, in order to provide for said recreational trail, has identified easements, both permanent and temporary, located on parcels of private property as being necessary for the establishment of said recreational trail, which said easements are required on a tract of property that is currently owned by Walter E. Graeler, Jo Ann Graeler, Judith A. Graeler, Clarence E. Graeler, and any unknown heirs, beneficiaries and other persons, and legal entities claiming a legal interest in the subject property containing approximately 2.38 acres and located at 17659 N. Outer 40 Road, Chesterfield, Missouri 63005.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, AS FOLLOWS:

Section 1. The City has determined that it is necessary and proper for the City to acquire a permanent easement containing approximately 0.30 acres, a temporary construction license containing 2.08 acres on property located at 17659 N. Outer 40 Road, Locator No. 17U430047 and 16V320067, legally described as set forth on Exhibit A attached hereto and made a part hereof, for the purpose of establishing and maintaining a public recreational trail for the benefit of the citizens of the City of Chesterfield.

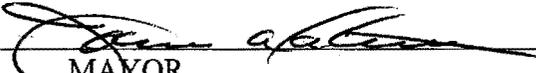
Section 2. The City Attorney on behalf of the City Council is authorized to take such action

as is necessary to acquire said easements from the current owners, Walter E. Graeler, Jo Ann Graeler, Judith A. Graeler, Clarence E. Graeler, and any unknown heirs, beneficiaries and other persons, and legal entities claiming a legal interest in the subject property for such sum as may be established under condemnation proceedings instituted by the City or negotiated, pursuant to the Revised Statutes of Missouri and Supreme Court Rule 86.

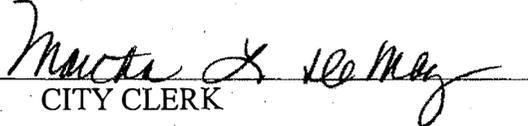
Section 3. The City Administrator on behalf of the City Council is authorized to take such action as is necessary to institute condemnation proceedings through the City's power of eminent domain and to acquire said property pursuant to the authority granted to the City by the Revised Statutes of Missouri.

Section 4. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 6th day of NOVEMBER, 2006.


MAYOR

ATTEST:


CITY CLERK

PERMANENT HIKING, BIKING AND WALKING TRAIL EASEMENT

THIS INDENTURE, made and entered into this _____ day of _____, 2006, Between, **Walter E. Graeler, as to an undivided ¼ interest, and Jo Ann Graeler, as to an undivided ¼ interest Quit Claim Deed and Judith A Graeler and Clarence E. Graeler, Co-Trustees of the Judith A Graeler Revocable Living Trust dated February 22, 2001 as to an undivided ¼ interest, by Quit Claim Deed and Clarence E. Graeler and Judith A. Graeler, Co-Trustees of the Clarence E. Graeler Revocable Living Trust dated February 22, 2001 by Quit Claim Deed** at 16801 North Outer 40 Road, Chesterfield, MO 63005, "Grantor"; and, **The City of Chesterfield, a 3rd class city organized under the Statutes of the State of Missouri with offices at 690 West Chesterfield Parkway, Chesterfield, Missouri 63017 "Grantee".**

WITNESSETH, that Grantor for and in consideration of the sum of One Dollar and No/100 (\$1.00) and other valuable consideration paid by the Grantee, the receipt and sufficiency of which is hereby acknowledged, does by these presents, grant unto Grantee a permanent non-exclusive easement to construct, repair, replace, improve, operate and maintain a hiking, biking and walking trail improvements atop the existing Monarch-Chesterfield levee structure upon premises located at:

Parcel 26: 17659 North Outer 40 Road – Locator # 16V320067 & # 17U430047

Permanent Easement: Parcel 26 – 13,226 Square Feet

* As more particularly described in Exhibit A, attached hereto and beginning at Page 5 and incorporated herein by reference.

The undersigned agrees not to obstruct or interfere with the normal use or maintenance of such recreational trail and appurtenances thereto and further agrees that no structure, fixture, improvement, or other obstruction above or below ground that will interfere with the purposes aforesaid will be placed, erected, installed, or permitted on the above described easement; provided, however, that Grantor reserves the right to use and enjoy the easement area in such manner as Grantor shall deem proper, including, but not limited to, all existing access (pedestrian and vehicular) over and across the easement area to real estate owned by Grantor on each side of the existing Monarch-Chesterfield Levee structure, to the extent that Grantor's use does not adversely or unreasonably interfere with Grantee's use thereof in accordance with the terms hereof.

TO HAVE AND TO HOLD said easement unto the City of Chesterfield, Missouri and to its assigns and successors forever.

The Grantor does hereby covenant to the Grantee that they are lawfully seized and possessed of the fee ownership of the land and the real estate above described and that they have a good and lawful right to

convey it, or any part thereof, that it is free from all encumbrances, and that they shall forever warrant and defend the title thereto against the lawful claims of all persons claiming by, through or under Grantor but none other.

This easement is being granted by Grantor to Grantee as a greenway system of trails or part of a dedicated system of trails and therefore Grantor is entitled to immunity from civil liability for certain injuries to person or property as more fully described in Section 258.100 of the Missouri Revised Statutes.

The existence of this easement upon Grantor's property shall not negatively impact, affect or impair density or green space calculations for any current or future use or development of Grantor's property.

[remainder of page intentionally left blank]

STATE of MISSOURI)
)
COUNTY OF ST. LOUIS) SS.

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public, appeared _____, to me personally known, who, being by me duly sworn, he/she said that he/she is the fee owner of 17659 North Outer 40 Road, Chesterfield, Missouri 63005, (16V320067 and 17U430047) and that said instrument was signed in behalf of Owner and said instrument was executed for the purposes therein stated and signed as a free act and deed of _____.

Notary: _____
Date: _____

STATE of MISSOURI)
)
COUNTY OF ST. LOUIS) SS.

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public, appeared _____, to me personally known, who, being by me duly sworn, he/she said that he/she is the fee owner of 17659 North Outer 40 Road, Chesterfield, Missouri 63005, (16V320067 and 17U430047) and that said instrument was signed in behalf of Owner and said instrument was executed for the purposes therein stated and signed as a free act and deed of _____.

Notary: _____
Date: _____

STATE of MISSOURI)
)
COUNTY OF ST. LOUIS) SS.

On this _____ day of _____, 2006 before me, the undersigned, a Notary Public, appeared Michael G. Herring, City Administrator of Chesterfield, Missouri to me personally known, who, being by me duly sworn, he said that he is the City Administrator of the City of Chesterfield, Missouri a body politic and corporate duly authorized, incorporated and existing under and by virtue of the laws of the State of Missouri, and that said instrument was signed in behalf of the City of Chesterfield by authority of its Board, and said official acknowledged said instrument was executed for the purposes therein stated and signed as a free act and deed of said City.

Notary: _____
Date: _____

EXHIBIT A

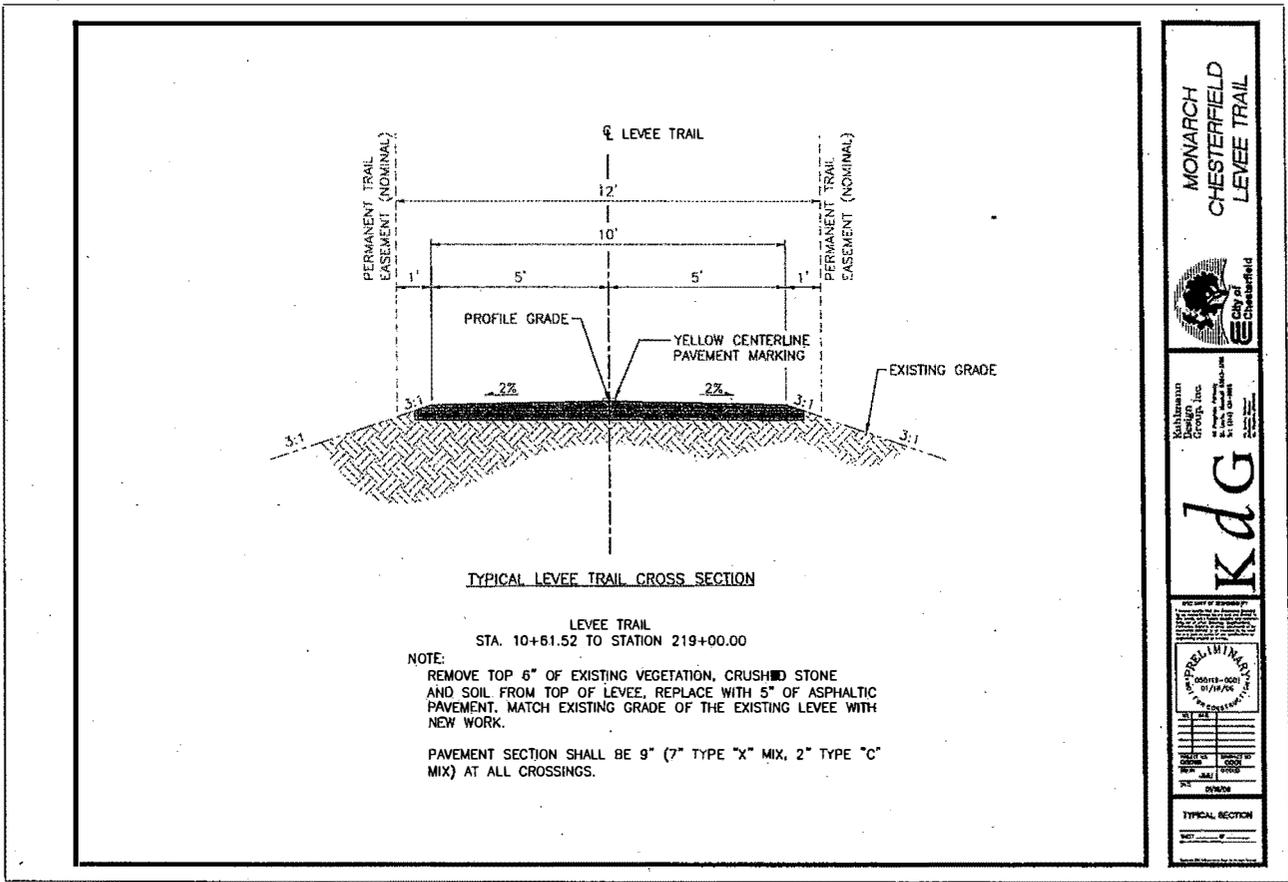
Legal Description

Parcel 26 –16V320067 and 17U430047– 17659 North Outer 40 Road, Chesterfield, MO 63005

A Variable Width **PERMANENT HIKING, BIKING AND WALKING TRAIL EASEMENT** across Part of U. S. Survey 1010, Township 45 North, Range 3 East of the 5th P.M., and being more particularly described as follows:

Commencing on Grantor's easterly property line, being a point on the westerly line of Lot 3 of the **Damian Kroenung Estate Subdivision** where said westerly line intersects with the northerly right of way line of North Outer 40 Road, Interstate 64 (State Route 40TR); **THENCE** North 02 degrees 28 minutes 04 seconds West on said easterly property line, 611.01 feet to the **Actual Point Of Beginning** of said Variable width Permanent Bike Trail Easement; **THENCE** leaving said easterly property line, North 87 degrees 34 minutes 33 seconds West, 25.28 feet; **THENCE** North 02 degrees 11 minutes 43 seconds East, 7.90 feet; **THENCE** North 87 degrees 17 minutes 07 seconds West, 227.53 feet; **THENCE** North 75 degrees 19 minutes 54 seconds West, 201.85 feet; **THENCE** North 67 degrees 58 minutes 30 seconds West, 301.92 feet; **THENCE** North 64 degrees 09 minutes 49 seconds West, 220.96 feet; **THENCE** South 25 degrees 50 minutes 11 seconds West, 8.17 feet; **THENCE** North 57 degrees 55 minutes 39 seconds West, 31.39 feet to a point on Grantor's westerly property line; **THENCE** North 06 degrees 51 minutes 12 seconds West on said westerly line, 35.99 feet; **THENCE** leaving said westerly property line, South 57 degrees 55 minutes 39 seconds East, 50.95 feet; **THENCE** South 25 degrees 50 minutes 11 seconds West, 8.00 feet; **THENCE** South 64 degrees 09 minutes 49 seconds East, 220.56 feet; **THENCE** South 67 degrees 58 minutes 30 seconds East, 300.75 feet; **THENCE** South 75 degrees 19 minutes 54 seconds East, 199.82 feet; **THENCE** South 87 degrees 17 minutes 07 seconds East, 226.17 feet; **THENCE** North 02 degrees 11 minutes 43 seconds East, 8.10 feet; **THENCE** South 87 degrees 34 minutes 33 seconds East, 23.00 feet to said Grantor's easterly property line; **THENCE** South 02 degrees 28 minutes 04 seconds East on said easterly property line, 28.10 feet to the Point Of Beginning.

Said **PERMANENT HIKING, BIKING AND WALKING TRAIL EASEMENT** containing **13,226 square feet**, more or less, and being situated in the City of Chesterfield, St. Louis County, Missouri.



MONARCH
CHESTERFIELD
LEVEE TRAIL

K&D

K&D GROUP, INC.
05518-0000
01/18/06

DATE	DESCRIPTION
01/18/06	ISSUED FOR CONSTRUCTION

TYPICAL SECTION

CONSTRUCTION DETAIL

Trail Description: Trail atop Monarch-Chesterfield Levee to be 10' wide, 5" of asphalt pavement. Section increases to 9" of asphalt pavement at levee crossings.

TEMPORARY CONSTRUCTION LICENSE

THIS INDENTURE made and entered into this _____ day of _____ 2006, between **Walter E. Graeler, as to an undivided ¼ interest, and Jo Ann Graeler, as to an undivided ¼ interest Quit Claim Deed and Judith A Graeler and Clarence E. Graeler, Co-Trustees of the Judith A Graeler Revocable Living Trust dated February 22, 2001 as to an undivided ¼ interest, by Quit Claim Deed and Clarence E. Graeler and Judith A. Graeler, Co-Trustees of the Clarence E. Graeler Revocable Living Trust dated February 22, 2001 by Quit Claim Deed** at 16801 North Outer 40 Road, Chesterfield, MO 63005, "Grantor" and **The City of Chesterfield, a 3rd class city organized under the Statutes of the State of Missouri with offices at 690 West Chesterfield Parkway, Chesterfield, Missouri 63017 "Grantee"**.

WITNESSETH, that Grantor, for and in consideration of the sum of One Dollar and No/100 (\$1.00) and other valuable consideration paid by Grantee, the receipt and sufficiency of which is hereby acknowledged, does by these presents, grant unto Grantee a Temporary Construction License upon the following described premises, situated in the County of St. Louis and State of Missouri, to wit: all the real estate described in Exhibit A beginning at Page 4 and incorporated herein by this reference as shown hachured on the attached plat marked Page 5 and made a part hereof.

SAID Temporary Construction License is granted for the purpose of making cuts, fills and sloping embankment, constructing drives, providing working room and implementing any and all other related construction items for the construction of the Monarch-Chesterfield Levee Hiking, Biking, and Walking Trail. This Temporary Construction License shall terminate upon the granting or denial of acceptance by the City of Chesterfield or its assigns of the Monarch-Chesterfield Levee Hiking, Biking, and Walking Trail.

Grantor covenants that no installation will be placed on the above platted land as will interfere with the proper construction of the aforementioned project until this license is terminated.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the above named Grantor has executed these presents the day and year first above written.

OWNER/GRANTOR:

Walter E. Graeler, as to an undivided 1/4 interest Date

Jo Ann Graeler, as to an undivided 1/4 interest Date

Clarence E. Graeler, Date
Co-Trustees of the Judith A Graeler Revocable Living Trust as to an undivided 1/4 interest

Clarence E. Graeler and Judith A. Graeler, Date
Co-Trustees of the Clarence E. Graeler Revocable Living Trust as to an undivided 1/4 interest

STATE of MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public, appeared _____, to me personally known, who, being by me duly sworn, he/she said that he/she is the fee owner of 17659 North Outer 40 Road, Chesterfield, Missouri 63005, (16V320067 and 17U430047) and that said instrument was signed in behalf of Owner and said instrument was executed for the purposes therein stated and signed as a free act and deed of _____.

Notary: _____
Date: _____

STATE of MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public, appeared _____, to me personally known, who, being by me duly sworn, he/she said that he/she is the fee owner of 17659 North Outer 40 Road, Chesterfield, Missouri 63005, (16V320067 and 17U430047) and that said instrument was signed in behalf of Owner and said instrument was executed for the purposes therein stated and signed as a free act and deed of _____.

Notary: _____
Date: _____

STATE of MISSOURI)
)
COUNTY OF ST. LOUIS) SS.

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public, appeared _____, to me personally known, who, being by me duly sworn, he/she said that he/she is the fee owner of 17659 North Outer 40 Road, Chesterfield, Missouri 63005, (16V320067 and 17U430047) and that said instrument was signed in behalf of Owner and said instrument was executed for the purposes therein stated and signed as a free act and deed of _____.

Notary: _____
Date: _____

STATE of MISSOURI)
)
COUNTY OF ST. LOUIS) SS.

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public, appeared _____, to me personally known, who, being by me duly sworn, he/she said that he/she is the fee owner of 17659 North Outer 40 Road, Chesterfield, Missouri 63005, (16V320067 and 17U430047) and that said instrument was signed in behalf of Owner and said instrument was executed for the purposes therein stated and signed as a free act and deed of _____.

Notary: _____
Date: _____

EXHIBIT A

Legal Description

17659 North Outer 40 Road, Chesterfield, MO 63005
16V320067 and 17U430047– Parcel 26

A **TEMPORARY CONSTRUCTION LICENSE** across Part of U. S. Survey 1010, Township 45 North, Range 3 East of the 5th P.M., and being more particularly described as follows:

Commencing on Grantor's easterly property line, being a point on the westerly line of Lot 3 of the **Damian Kroenung Estate Subdivision** where said westerly line intersects with the northerly right of way line of North Outer 40 Road, Interstate 64 (State Route 40TR); **THENCE** North 02 degrees 28 minutes 04 seconds West on said easterly property line, 580.55 feet to the **Actual Point of Beginning** of said Temporary Construction License; **THENCE** leaving said easterly property line, North 88 degrees 22 minutes 12 seconds West, 263.80 feet; **THENCE** North 75 degrees 12 minutes 39 seconds West, 241.95 feet; **THENCE** North 66 degrees 52 minutes 14 seconds West, 376.54 feet; **THENCE** South 80 degrees 27 minutes 33 seconds West, 100.80 feet to a point on Grantor's westerly property line; **THENCE** North 06 degrees 52 minutes 51 seconds West on said westerly property line, 108.59 feet; **THENCE** continuing on said westerly property line, North 06 degrees 51 minutes 12 seconds West, 69.71 feet; **THENCE** leaving said westerly property line, South 66 degrees 52 minutes 14 seconds East, 543.25 feet; **THENCE** South 75 degrees 12 minutes 39 seconds East, 223.12 feet; **THENCE** South 88 degrees 22 minutes 12 seconds East, 245.10 feet to said Grantor's easterly property line; **THENCE** South 02 degrees 28 minutes 04 seconds East on said easterly property line, 100.26 feet to the Point Of Beginning. **Less and Excepting** that part separately conveyed by Grantor to Grantee contemporaneously herewith as a PERMANENT HIKING, BIKING AND WALKING TRAIL ASEMENT.

Said **TEMPORARY CONSTRUCTION LICENSE** containing 90,440 square feet, more or less, and being situated in the City of Chesterfield, St. Louis County, Missouri.